

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**Before the Honorable Kirtan Khalsa
United States Magistrate Judge**

Minutes

Monday, June 6, 2022, at 2:30 p.m.

Gay, et al. v. City of Gallup

Civ. No. 21-604 JCH/KK

PLAINTIFFS' ATTORNEY PRESENT: William R. Keeler

DEFENDANT'S ATTORNEY PRESENT: Thomas Lynn Isaacson

GUARDIAN AD LITEM: Lisa Schatz-Vance (for Guardian ad Litem
Matthew Vance)

TYPE OF PROCEEDING: Telephonic Status Conference

Time – 42 minutes

CLERK'S MINUTES:

- A Telephonic Status Conference was held in the above-captioned case to discuss the scheduling of a fairness hearing.
- Ms. Schatz-Vance reported that the Guardian ad Litem's investigation and report will likely be completed by the end of the month.
- The Court and counsel discussed setting the fairness hearing in July, and the Court offered July 6, 13, 14, and 15 as available dates. The parties agreed that the hearing should be held via Zoom rather than in-person for the convenience of the decedent's family.
- All counsel reported availability on July 13th all day, and on July 14th in the afternoon.
- The Court indicated it would hold those two days and time frames open until Wednesday, June 8, 2022.
- The Court instructed Plaintiffs' counsel to confer with his clients (including the personal representative ("PR") and the minor Plaintiff's mother, as well as any other family members or legal guardians who may need to be present for a fairness hearing) regarding

their preferred date and to inform the Court and opposing counsel of their preference by June 8, 2022.

- The Court reminded counsel of the availability of procedures for voluntarily consenting to a Magistrate Judge to preside over the fairness hearing and enter final Judgment using Form AO-85.
- The Court and counsel discussed circumstances in which the Court would consider granting a request to excuse the PR from the hearing; however, the Court indicated that at present the expectation is that the PR must attend.
- Counsel informed the Court that the proposed settlement is of a state court wrongful death action as well as this federal action, and that the negotiated settlement disbursement the parties have asked the Court to approve is under the New Mexico wrongful death statute.
- The Court asked counsel why the parties have requested a fairness hearing in federal court as well as state court and discussed its concerns regarding the possibility of conflicting findings between the two forums.
- After discussion, the Court determined and the parties agreed that the best course forward would be to await the Guardian ad Litem's report, which should address the proposed settlement in the context of all claims made in both forums, after which the Court will determine whether two fairness hearings should occur and if so in what order.
- Thus, the Court will schedule a status conference for July 13, 2022, at 1:30 p.m., with the possibility of converting it to a fairness hearing if appropriate after reviewing the Guardian ad Litem's report. The Court instructed counsel to set aside one hour for this hearing.
- The Court also directed Plaintiffs' counsel to instruct his clients and any others who will need to attend a fairness hearing to set aside July 13, 2022, from 1:30-2:30 p.m. for a Zoom hearing in the event the Court determines that a fairness hearing should proceed on that date after reviewing the report.
- There being nothing further, the Court recessed.